

GERGOSIAN & GRALEWSKI, LLP
Edward M. Gergosian
655 West Broadway
Suite 1410
San Diego, CA 92101
Telephone: (619) 237-9500
Facsimile: (619) 237-9555

SCHIFFRIN BARROWAY
TOPAZ & KESSLER, LLP
Nichole Browning (Bar No. 251937)
2125 Oak Grove Road, Suite 120
Walnut Creek, California 94598
Telephone: (925) 945-0770
Facsimile: (925) 945-8792

-and-

Eric L. Zagar (Bar No. 250519)
Tara P. Kao
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

Counsel for Plaintiff

(Additional Moving Counsel Listed on Signature Page)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

CHARLES GRAHAM, Derivatively on Behalf
of Nominal Defendant LEAP WIRELESS
INTERNATIONAL, INC.,

Plaintiff,

vs.

S. DOUGLAS HUTCHESON, AMIN
KHALIFA, GRANT BURTON, DEAN M.
LUVISA, MICHAEL B. TARGOFF, JOHN D.
HARKEY, JR., ROBERT V. LAPENTA,
MARK H. RACHESKY, M.D., and JAMES D.
DONDERO,

Defendants,

and

LEAP WIRELESS INTERNATIONAL, INC.,

Nominal Defendant.

Case No.: 08-0246 BTM (NLS)

**JOINT MOTION REGARDING
COORDINATION AND SETTING
SCHEDULE FOR FILING A
CONSOLIDATED COMPLAINT AND
BRIEFING**

Courtroom 15
Honorable Barry T. Moskowitz

1 The parties hereto jointly move this Court for an order granting this Joint Motion Regarding
2 Coordination and Setting Schedule for Filing a Consolidated Complaint and Briefing through entry
3 of the Proposed Order submitted herewith.

4 In support of this joint motion, the parties state:

5 1. On February 7, 2008, Plaintiff Charles Graham ("Federal Plaintiff") filed the above-
6 captioned shareholder derivative action on behalf of Nominal Defendant Leap Wireless
7 International, Inc. ("Leap") ("Federal Derivative Action").

8 2. There is currently pending a substantially similar shareholder derivative action in
9 the Superior Court of California, San Diego entitled *McBride v. Hutcheson*, Civil Action No. 37-
10 2007-81584-CU-MC-CTL (the "State Derivative Action") filed by plaintiff Lori McBride ("State
11 Plaintiff").

12 3. On April 21, 2008, State Plaintiff filed an Amended Shareholder Derivative
13 Complaint.

14 4. On May 30, 2008 and June 2, 2008, Leap and the Individual Defendants,
15 respectively, filed motions to dismiss this Federal Derivative Action, which are currently
16 calendared for hearing on September 4, 2008 (the "Motions to Dismiss").

17 5. Meanwhile, on June 19, 2008, Leap and the Individual Defendants each filed
18 demurrers in the State Derivative Action, which are set for hearing on October 3, 2008.

19 6. On July 1, 2008, Leap, joined by the Individual Defendants, filed a Motion to Stay
20 the State Derivative Action pending resolution of this Federal Derivative Action, which is set for
21 hearing on September 19, 2008.

22 7. All parties to the State and Federal Derivative Actions wish to avoid unnecessary,
23 duplicative and potentially conflicting proceedings in multiple forums.

24 8. For purposes of judicial efficiency, counsel for the Federal Plaintiff, Schiffrin
25 Barroway Topaz & Kessler LLP, and counsel for State Plaintiff, Milberg LLP, intend to coordinate
26 litigation efforts and proceed jointly in this Court.

1 9. Counsel for State Plaintiff, Milberg LLP, will associate in to this Action as co-lead
2 counsel to Schiffrin Barroway Topaz & Kessler LLP.

3 10. Contemporaneously with this Joint Motion, the parties in the State Derivative
4 Action are filing a Stipulation to Stay the State Derivative Action pending further order of the court
5 in the State Action or resolution of this Federal Derivative Action (copy of Stipulation attached
6 hereto as Exhibit A).

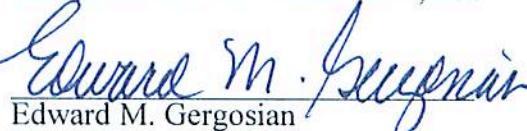
7 WHEREFORE, the parties, through their respective counsel, respectfully request the Court
8 enter an order as follows:

- 9
- 10 A. Federal Plaintiff shall file a notice to associate Milberg LLP as co-lead counsel in
11 this Action. Subject to paragraph C below, defendants take no position with respect
12 to the notice to associate Milberg LLP as co-lead counsel in this Action;
 - 13 B. The Co-Lead Counsel in this Action are Schiffrin Barroway Topaz & Kessler, LLP
14 and Milberg LLP. Subject to paragraph C below, defendants take no position with
15 respect to the appointment of Co-Lead Counsel;
 - 16 C. Defendants and their counsel shall be entitled to rely upon all agreements and
17 statements made by or with either of Co-Lead Counsel in this action, and such
18 agreements shall be binding on Federal Plaintiff and on Co-Lead Counsel.
 - 19 D. Federal Plaintiff shall file an amended consolidated complaint in this Federal
20 Derivative Action on or before September 12, 2008;
 - 21 E. Federal Plaintiff shall not be required to file a response to the Motions to Dismiss
22 filed on May 30, 2008 and June 2, 2008;
 - 23 F. Defendants shall respond or file motions to dismiss Federal Plaintiff's amended
24 consolidated complaint on or before October 27, 2008, and, due to the complexity of
25 the issues and the anticipated new claims in the amended consolidated complaint,
26 each motion shall not exceed 30 pages;
 - 27 G. Federal Plaintiff may file opposition briefs to any motions to dismiss on or before
28 December 11, 2008, and each opposition brief shall not exceed 30 pages; and
 - H. Defendants may file reply briefs in support of any motions to dismiss on or before
January 16, 2009, and each reply brief shall not exceed 15 pages.

25 DATED: August 13, 2008

Respectfully submitted,

GERGOSIAN & GRALEWSKI, LLP


Edward M. Gergosian

655 West Broadway
Suite 1410
San Diego, CA 92101
Telephone: (619) 237-9500
Facsimile: (619) 237-9555

SCHIFFRIN BARROWAY
TOPAZ & KESSLER, LLP
Nichole Browning (Bar No. 251937)
2125 Oak Grove Road, Suite 120
Walnut Creek, California 94598
Telephone: (925) 945-0200
Facsimile: (925) 945-8792
-and-
Eric L. Zagar (Bar No. 250519)
Tara P. Kao
280 King of Prussia Road
Radnor, PA 19087
Telephone: (610) 667-7706
Facsimile: (610) 667-7056

Counsel for Plaintiff

DATED: 8/13/08

LATHAM & WATKINS LLP

Kimberly Hicks by EMB per KAH OK
Kimberly Arouh Hicks
600 West Broadway, Suite 1800
San Diego, CA 92101-3375
Telephone: (619) 236-1234
Facsimile: (619) 696-7419
-and-
Pamela S. Palmer
355 South Grand Ave.
Los Angeles, California 90071-1560
Telephone: (213) 485-1234
Facsimile: (213) 891-8763

*Counsel for Nominal Defendant
Leap Wireless International Inc.*

DATED: 8/13/08

WILSON SONSINI GOODRICH
& ROSATI, P.C.

Diane Walters by EMB per DMW OK
Diane M. Walters
650 Page Mill Road
Palo Alto, CA 94304-1050
Telephone: (650) 493-9300
Facsimile: (650) 493-6811

Counsel for Individual Defendants